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## In the United States Patent and Trademark Office

Applicants: Jason S. Fairbanks et al. Docket No.: 18645  
Serial No.: 10/631,144 Group: 1774  
Confirmation 2240 Examiner: Edwards, Newton O.  
Filed: July 31, 2003 Date: June 14, 2004  
For: CRIMPED THERMOPLASTIC MULTICOMPONENT FIBER AND FIBER  
WEBS AND METHOD OF MAKING

## Response to Restriction Requirement With Traverse

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the restriction requirement mailed May 13, 2004, Applicants respectfully provisionally elect the Group III claims 16-21 to be prosecuted by way of the present application. In addition, Applicants elect from claim 18 the species copolymers, and elect from claim 19 the species carbon black.

Because the restriction requirement mailed May 13, 2004 set a shortened statutory period of 1 month, which ends on Sunday, June 13, 2004 this response filed Monday, June 14, 2004 is believed to be timely. Accordingly, Applicants believe no fees are due. However, in the event any prosecutorial fees are due, please charge to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

This election is made **with traverse**. Applicants specifically reserve the right to seek patent protection for non-elected subject matter by divisional application.

Applicants respectfully request that the Examiner reconsider the restriction requirement for the following reasons. The Examiner's restriction breaks the claims into four groups: Group I, claims 1-8, to a method of making a fiber; Group II, claims 9-15, to a method of making a nonwoven; Group III, claims 16-21, to a crimped fiber; and Group IV, claims 22-26, to a nonwoven. First, because these are closely related, full consideration of one Group would consist of a search which includes the other Groups, and therefore full examination of all of the claims would not present an undue burden on the Examiner.

With respect to Group III (provisionally elected) and Group IV, the Examiner has stated that these are related as mutually exclusive species in an intermediate-final product relationship. In order for an intermediate and final product relationship to be present, typically, the intermediate must lose its identity in the final product (MPEP 806.04(b)). In addition, as set forth in MPEP 806.04(f), in order for species to be mutually exclusive the one claim must recite limitations which are found in the first species but not in the second, while the second claim recites limitation disclosed only for the second species and not in the first. This is clearly not the case here. Because Group IV (nonwoven) species is dependent on Group III (fiber) species, all of

the limitations of the first species (fiber) are necessarily present in the second species (nonwoven). Therefore Group III and Group IV are not mutually exclusive species in an intermediate-final product relationship. This is not an admission that a reference teaching all of the limitations of Group III (fiber) anticipates Group IV or renders Group IV obvious. Because the Examiner's basis for making the restriction requirement between provisionally elected Group III and Group IV is improper, Applicants hereby request that the Examiner examine claims 16-26 together.

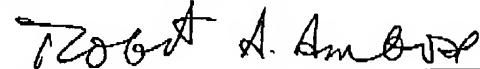
In addition, with respect to Group III (provisionally elected) and Group I, the Examiner has stated that these are related as product and process, and that the product (fiber) can be made by a materially different process such as "providing, treating, winding". Applicants reserve the right to request that the Group I (process) claims 1-8 be rejoined with the Group III fiber claims 16-21, upon the Examiner's finding that the subject matter of claims 1-22 to be allowable, in accordance with MPEP 821.04, since the claims are related as product and process of making the product, respectively.

The undersigned may be reached at: 770-587-8908.

Respectfully submitted,

JASON S. FAIRBANKS ET AL.

By



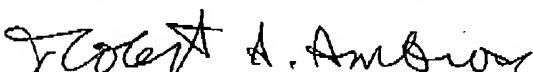
Robert A. Ambrose

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By



Robert A. Ambrose



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-- 2 pages in response to the Office Action (Restriction Requirement) mailed on May 13, 2003.

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